



MICHAEL A. CARDODOZ
Corporation Counsel



MEMO ENDORSED

THE CITY OF NEW YORK
LAW DEPARTMENT

100 CHURCH STREET
NEW YORK, NY 10007

Caryn Rosencrantz
Phone: (212) 788-1276
Fax: (212) 788-9776
crosencr@law.nyc.gov

May 28, 2008

BY FACSIMILE

Honorable Frank Maas
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, New York 10007
Fax: 212-805-6724

APPLICATION GRANTED
SO ORDERED

Frank Maas, USMJ 5/29/08

Re: Andre Holley v. City of New York, et. al., 08-CV-03024 (GEL) (FM)¹

Your Honor:

As the Assistant Corporation Counsel assigned to the defense of the above-referenced civil rights action, I write to respectfully request that defendants' City of New York, New York City Police Department and Police Officer Alexander Cruz time to answer or otherwise respond to the complaint in this action be enlarged sixty (60) days from May 28, 2008 to and including July 28, 2008. *Pro se* plaintiff, Andre Holley, is currently incarcerated and therefore, I am unable to reach him in order to obtain his consent. However, I have no reason to believe that he would object to this request for an initial enlargement of time.

The complaint alleges, *inter alia*, that on July 14, 2007, New York City Police Department officer Alexander Cruz falsely arrested and subsequently maliciously prosecuted plaintiff in violation of his federal civil rights. As a threshold matter, an enlargement of time will allow this office to forward to plaintiff for execution authorizations for the release of the

¹ This case has been assigned to Assistant Corporation Counsel Katherine E. Smith, who is presently awaiting admission to the bar and is handling this matter under supervision. Ms. Smith may be reached directly at (212) 513-0462.

underlying arrest, criminal prosecution and medical records. Defendants cannot obtain these records without the authorizations, and without the records, defendants cannot properly assess this case or respond to the complaint. Accordingly, defendants require this enlargement so that this office may obtain the underlying documentation, properly investigate the allegations of the complaint and fulfill its obligations under Rule 11 of the Federal Rules of Civil Procedure.

Moreover, an enlargement of time is necessary to resolve representation issues. In addition to the City of New York and the New York City Police Department, plaintiff names Alexander Cruz as a defendant.² Pursuant to Section 50-K of the New York General Municipal Law, the Corporation Counsel's office must determine based on a review of the facts of the case, whether we may represent Officer Cruz. Officer Cruz must then decide whether he wishes to be represented by the Corporation Counsel, and if so, the Corporation Counsel's office must obtain his written authorization.

No previous request for an enlargement of time has been made. Accordingly, defendants respectfully request that their time to answer or otherwise respond to the complaint be enlarged sixty (60) days May 28, 2008 to and including July 28, 2008.

I thank Your Honor for considering the within request.

Respectfully submitted,



Caryn Rosencrantz (CR 3477)
Assistant Corporation Counsel
Special Federal Litigation Division

cc: Andre Holley (07-A- 6304)
Pro Se Plaintiff
Eastern Correctional Facility
P.O. Box 338
Napanoch, New York 12458
(By First Class Mail)

² This office has not yet discussed with defendant Cruz the manner of services, and we make no representation herein as to the adequacy of process. Although this office does not currently represent defendant Cruz, and assuming he was properly served, this office respectfully requests this extension on his behalf so that his defenses are not jeopardized while representational issues are being decided.